

## § 35.160

other HUD program assistance, the most protective requirements prevail.

### § 35.160 Waivers.

In accordance with § 5.110 of this title, on a case-by-case basis and upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of subparts B, C, D, F through M, and R of this part.

### § 35.165 Prior evaluation or hazard reduction.

If an evaluation or hazard reduction was conducted at a residential property or dwelling unit before the property or dwelling unit became subject to the requirements of subparts B, C, D, F through M, and R of this part, such an evaluation, hazard reduction or abatement meets the requirements of subparts B, C, D, F through M, and R of this part and need not be repeated under the following conditions:

(a) *Lead-based paint inspection.* (1) A lead-based paint inspection conducted before the date specified in 40 CFR 745.239(b) meets the requirements of this part if:

(i) At the time of the inspection the lead-based paint inspector was approved by a State or Indian tribe to perform lead-based paint inspections. It is not necessary that the State or tribal approval program had EPA authorization at the time of the inspection.

(ii) Notwithstanding paragraph (a)(1)(i) of this section, the inspection was conducted and accepted as valid by a housing agency in fulfillment of the lead-based paint inspection requirement of the public and Indian housing program.

(2) A lead-based paint inspection conducted on or after the effective date specified in 40 CFR 745.239(b) must have been conducted by a certified lead-based paint inspector.

(b) *Risk assessment.* (1) A risk assessment must be no more than 12 months old to be considered current.

(2) A risk assessment conducted before the effective date of 40 CFR 745.239(b) meets the requirements of this part if at the time of the risk assessment the risk assessor was approved by a State or Indian tribe to perform risk assessments. It is not nec-

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essary that the State or tribal approval program had EPA authorization at the time of the risk assessment.

(3) A risk assessment conducted on or after the date specified in 40 CFR 745.239(b) must have been conducted by a certified risk assessor.

(4) Paragraph (b) of this section does not apply in a case where a risk assessment is required in response to the identification of a child with an environmental intervention blood lead level. In such a case, the requirements in the applicable subpart for responding to a child with an environmental intervention blood lead level shall apply.

(c) *Interim controls.* If a residential property is under a program of interim controls and ongoing lead-based paint maintenance and reevaluation activities established pursuant to a risk assessment conducted in accordance with paragraph (b) of this section, the interim controls that have been conducted meet the requirements of this part if clearance was achieved after such controls were implemented. In such a case, the program of interim controls and ongoing activities shall be continued in accordance with the requirements of this part.

(d) *Abatement.* (1) An abatement conducted before the date specified in 40 CFR 745.239(b) meets the requirements of this part if:

(i) At the time of the abatement the abatement supervisor was approved by a State or Indian tribe to perform lead-based paint abatement. It is not necessary that the State or tribal approval program had EPA authorization at the time of the abatement.

(ii) Notwithstanding paragraph (d)(1)(i) of this section, it was conducted and accepted by a housing agency in fulfillment of the lead-based paint abatement requirement of the public housing program or by an Indian housing authority (as formerly defined under the U.S. Housing Act of 1937) in fulfillment of the lead-based paint requirement of the Indian housing program formerly funded under the U.S. Housing Act of 1937.

(2) An abatement conducted on or after the date specified in 40 CFR 745.239(b) must have been conducted